

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TIMOTHY LEE STEWART, SR.,

Plaintiff,

v.

ORDER

DREW SEVERSON, JOHN DOE SWITCHBOARD
OPERATOR, and JOHN DOE OFFICER.,

21-cv-555-jdp

Defendants.

Plaintiff Timothy Stewart alleges that Janesville Police Department officials blocked his attempt to make an anonymous complaint of misconduct against defendant Sergeant Drew Severson. I granted Stewart leave to proceed on First Amendment retaliation claims and Fourteenth Amendment equal protection “class of one” claims against the officers involved in the incident. Stewart has now filed a document seeking to amend his complaint and asking the court to issue subpoenas for President Biden and Vice President Harris. Dkt. 28.

Stewart now alleges that defendants Severson and John Doe Officer repeatedly used racial slurs against him as they blocked him from reporting Severson’s misconduct. At this point in the proceedings, Stewart cannot amend his complaint without leave of the court, but the court “should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). I will accept Stewart’s new filing as a supplement to his complaint and allow him to proceed on a Fourteenth Amendment equal protection claim against Severson and the John Doe officer for blocking his attempts to report misconduct because of Stewart’s race. *See DeWalt v. Carter*, 224 F.3d 607, 612 n.3 (7th Cir. 2000) (“[racially derogatory] language is strong evidence of racial animus, an essential element of any equal protection claim”) (*abrogated on other grounds by Savory v. Cannon*, 947 F.3d 409 (7th Cir. 2020)).

Stewart also seeks to amend his complaint to add as defendants various community groups and high-level governmental officials. Nothing in Stewart's filings suggests that any of these individuals or entities were involved in violating his rights regarding the events in this lawsuit. So I will deny that portion of Stewart's motion for leave to amend his complaint. Defendants need answer only the part of Stewart's supplement containing his allegations about defendants' use of racial slurs.

Stewart has filed a motion seeking to subpoena the president and vice president. He seems to be saying that they have the duty to provide expert testimony on public safety and constitutional rights. This is a frivolous request that I will deny: the president and vice president do not have a duty to testify in citizens' lawsuits about which they have no personal knowledge. And the court may not invite experts to testify about legal conclusions.

ORDER

IT IS ORDERED that:

1. Plaintiff Timothy Lee Stewart, Sr.'s motion to amend the complaint, Dkt. 28, is GRANTED in part.
2. Plaintiff is now GRANTED leave to proceed on the following claims:
 - First Amendment retaliation claims and equal protection "class of one" claims against defendant Drew Severson, John Doe switchboard operator, and John Doe officer.
 - A race-based equal protection claim against defendants Severson and John Doe officer.

3. Plaintiff's motion for subpoenas, Dkt. 28, is DENIED.

Entered April 11, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge